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7 MICHAEL L LUCKERT,
8 Plaintiff,
9 v.
10 O. SMITH, et al.,
11 Defendants.

Case No. [19-cv-08204-PJH](#)

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**ORDER GRANTING MOTION TO FILE
UNDER SEAL**

22 Re: Dkt. No. 49

23 Plaintiff, a detainee, proceeds with a pro se civil rights complaint under 42 U.S.C.
24 § 1983. Defendants have filed a motion to dismiss for failure to prosecute or in the
25 alternative for summary judgment. As part of the motion defendants have included
26 plaintiff's medical records from the Jail Health Services and the San Francisco
27 Department of Public Health. These records contain plaintiff's sensitive and private
28 health information that is protected by the Health Insurance Portability and Accountability
Act of 1996, 42 U.S.C. § 1320d, et seq., and the California Confidentiality of Medical
Information Act, Cal. Civ. Code § 56, et seq. Defendant's request that these records be
filed under seal.

29 "The proponent of sealing bears the burden with respect to sealing. A failure to
30 meet that burden means that the default posture of public access prevails." *Kamakana v.*
31 *City & County of Honolulu*, 447 F.3d 1172, 1182 (9th Cir. 2006). In this district, requests
32 to file documents under seal in civil cases are governed by Civil Local Rule 79-5, which
33 provides that "[n]o document may be filed under seal . . . except pursuant to a Court
34 order that authorizes the sealing of the particular document, or portions thereof[;]" and
35 further, that a sealing order may issue only based upon a request showing that the

1 document, or portions thereof, is privileged, or protectable as a trade secret, or otherwise
2 entitled to protection under the law. Civ. L.R. 79-5(a). In particular, “[t]he request must be
3 narrowly tailored to seek sealing only of sealable material. . . .” *Id.*

4 Defendants have met their burden in order to safeguard plaintiff’s private health
5 information and to comply with federal and state law. Defendants’ motion to file under
6 seal (Docket No. 49) is **GRANTED** and the clerk is requested to file the records under
7 **SEAL.**

8 **IT IS SO ORDERED.**

9 Dated: August 17, 2021

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11 /s/ Phyllis J. Hamilton
12 PHYLLIS J. HAMILTON
13 United States District Judge
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